

Commonwealth of Massachusetts
SUFFOLK SUPERIOR COURT

Case Summary
Civil Docket

08/26/2005
10:28 AM

SUCV2005-01699
Barkhouse et al v Delta Airlines Inc et al

File Date	04/29/2005	Status	Disposed: transfered to other court (dtrans)	
Status Date	08/26/2005	Session	B - Civil B, 3 Pemberton Square, Boston	
Origin	1	Case Type	B04 - Other negligence/pers injury/pro	
Lead Case		Track	F	
Service	07/28/2005	Answer	09/26/2005	Rule12/19/20 09/26/2005
Rule 15	09/26/2005	Discovery	02/23/2006	Rule 56 03/25/2006
Final PTC	04/24/2006	Disposition	06/23/2006	Jury Trial Yes

05cv11660
NG

PARTIES

Plaintiff

Averill Barkhouse
Active 04/29/2005

Private Counsel 550055

Kevin C Cain
Peabody & Arnold
30 Rowes Wharf
6th floor
Boston, MA 02110-3342
Phone: 617-951-2100
Fax: 617-951-2125
Active 04/29/2005 Notify

Plaintiff

Jody Barkhouse
Active 04/29/2005

*** See Attorney Information Above ***

Defendant

Delta Airlines Inc
Served: 07/29/2005
Served (answr pending) 08/08/2005

Private Counsel 546759

Thomas R Murphy
Giarrusso Norton Cooley & McGlone
308 Victory Road
Marina Bay
Quincy, MA 02171
Phone: 617-770-2900
Fax: 617-773-6934
Active 08/26/2005 Notify

Defendant

Globe Ground North America LLC
Served: 07/29/2005
Served (answr pending) 07/29/2005

ENTRIES

Date	Paper	Text
04/29/2005	1.0	Complaint & jury demand on complaint
04/29/2005		Origin 1, Type B04, Track F.

Commonwealth of Massachusetts
SUFFOLK SUPERIOR COURT

Case Summary
Civil Docket

08/26/2005
10:28 AM

SUCV2005-01699
Barkhouse et al v Delta Airlines Inc et al

Date	Paper	Text
04/29/2005	2.0	Civil action cover sheet filed
07/29/2005	3.0	SERVICE RETURNED: Delta Airlines Inc(Defendant) (certified mail on 7/29/05)
07/29/2005	4.0	SERVICE RETURNED: Globe Ground North America LLC(Defendant) (certified mail on 7/29/05)
08/03/2005		Case status changed to 'Needs review for answers' at service deadline review
08/08/2005	5.0	Affidavit of compliance by Kevin C Cain with proof of service of complaint re: Delta Airlines Inc by certified mail return receipt on 8/2/05
08/08/2005	6.0	SERVICE RETURNED (summons): Globe Ground North America LLC, service made on August 01, 2005 (agent in charge service) in hand to Y Concepcion, Process Clerk
08/08/2005	7.0	Affidavit of compliance with long-arm statute with proof of service on out of state defendant Globe Ground North America LLC by certified mail return receipt on 7/29/05
08/26/2005		Certified copy of petition for removal to U. S. Dist. Court of Deft. Delta Air Lines, Inc. U. S. Dist. #(05-11660NG).
08/26/2005		Case REMOVED this date to US District Court of Massachusetts

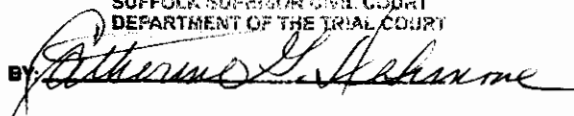
EVENTS

I HEREBY ATTEST AND CERTIFY ON

AUGUST 26, 2005, THAT THE

FOREGOING DOCUMENT IS A FULL
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT

BY 
ASSISTANT CLERK.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO.

AVERILL BARKHOUSE and JODY
BARKHOUSE

Plaintiff

v.

DELTA AIRLINES, INC. and GLOBE
GROUND NORTH AMERICA LLC

Defendants

05-19
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE
2005 APR 29 P 4:04
SUFFOLK SUPERIOR COURT
CLERK'S OFFICE

COMPLAINT

Parties

1. The plaintiff, Averill Barkhouse, is a natural person who currently resides at 3849 Highway 14, Upper Rawdon, Nova Scotia, Canada.
2. The plaintiff, Jody Barkhouse, is a natural person who currently resides at 3849 Highway 14, Upper Rawdon, Nova Scotia, Canada.
3. The defendant, Delta Air Lines, Inc. ("Delta") is a Delaware Corporation with its principal place of business at 1030 Delta Blvd Dept. 852 Atlanta, GA, 30320. Delta's resident agent in Massachusetts is Corporation Service Company, 84 State Street, Boston, MA 02109.
4. The defendant, GlobeGround North America LLC ("GlobeGround"), is a Delaware Corporation with its principal place of business at 111 Great Neck Road, Great Neck, MA 11022-0000. GlobeGround's resident agent is CT Corporation System, 101 Federal Street, Boston, MA 02110.

Facts

5. On May 3, 2003 Averill Barkhouse and Jody Barkhouse were passengers on Delta flight DL2070 originating in Atlanta, Georgia with a destination of Boston, Massachusetts.

6. Flight DL2070 was the first segment of a trip with the final destination of Halifax, Nova Scotia. The lack of a direct flight from Atlanta required the Barkhouse's to change of planes in Boston.
7. Averill Barkhouse was a quadriplegic, traveled with a custom motorized wheelchair and required assistance in embarking and disembarking the aircraft.
8. Upon information and belief GlobeGround was contracted by Delta airlines to provide Delta with certain ground based services at Boston's Logan International Airport, including, inter alia, assistance in transferring physically disabled passengers to and from Delta's aircraft.
9. Delta and GlobeGround were on notice of Averill Barkhouse's medical condition and his need for assistance embarking and disembarking Delta's aircraft in Boston.
10. GlobeGround's employees failed to use ordinary care in transferring Averill Barkhouse from his seat on Delta flight DL2070 to a wheelchair in Boston.
11. As a result of the negligence of GlobeGround's employees, Averill Barkhouse suffered serious personal injuries, including but not limited to a fracture to his left hip.

COUNT I – NEGLIGENCE – (Averill Barkhouse against all Defendants)

12. The plaintiff, Averill Barkhouse repeats and realleges the allegations contained in paragraphs 1 through 11 and incorporates them as if fully set forth herein.
13. Each defendant owed the plaintiff a duty of care in the transfer of Averill Barkhouse from the Delta aircraft to the terminal.
14. As a direct and proximate result of the negligence of each defendant plaintiff, Averill Barkhouse was caused to suffer serious debilitating physical injuries including mental and physical pain.

WHEREFORE, the Plaintiff, Averill Barkhouse, demands judgment against the defendants, jointly and severally, for the damages herein described, in a full and just amount, together with interest and costs.

COUNT II – LOSS OF CONSORTIUM – (Jody Barkhouse against all Defendants)

15. The plaintiff, Jody Barkhouse repeats and realleges the allegations contained in paragraphs 1 through 11 and incorporates them as if fully set forth herein.
16. Each defendant owed the plaintiff a duty of care in the transfer of Averill Barkhouse from the Delta aircraft to the terminal.
17. As a direct and proximate result of the negligence of each defendant plaintiff, Jody Barkhouse Averill Barkhouse was caused to suffer a loss of consortium, company,

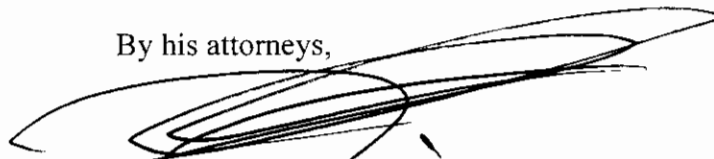
society, and affection of Averill Barkhouse due to the serious debilitating physical injuries he suffered due to the negligence of the defendants.

WHEREFORE, the Plaintiff, Jody Barkhouse, demands judgment against the defendants, jointly and severally, for the damages herein described, in a full and just amount, together with interest and costs.

JURY CLAIM

The plaintiff hereby requests a trial by jury.

By his attorneys,



Kevin C. Cain #550055
Peabody & Arnold LLP
30 Rowes Wharf
Boston, MA 02110
(617) 951-2100

PABOS2:KCAIN:613621_1

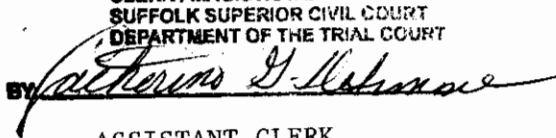
I HEREBY ATTEST AND CERTIFY ON

AUGUST 26, 2005, THAT THE

FOREGOING DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT

BY



ASSISTANT CLERK.

PLAINTIFF(S) Averill Barkhouse and Jody Barkhouse	DEFENDANT(S) Delta Air Lines, Inc. and GlobeGround North America, LLC
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE Kevin C. Cain BBO# 550055 Peabody & Arnold LLP 30 Rowes Wharf, Boston, MA 02110	ATTORNEY (if known)

Origin code and track designation

Place an x in one box only:

<input checked="" type="checkbox"/> 1. F01 Original Complaint	<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)
<input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)	<input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)
<input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)	<input type="checkbox"/> 6. E10 Summary Process Appeal (X)

CODE NO.	TYPE OF ACTION (specify)	TRACK	IS THIS A JURY CASE?
B04	Negligence	(F)	(X) Yes () No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS
(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses	(estimate) \$ 10,000.00
2. Total Doctor expenses	\$
3. Total chiropractic expenses	\$
4. Total physical therapy expenses	\$
5. Total other expenses (describe)	\$
Subtotal	\$

B. Documented lost wages and compensation to date \$

C. Documented property damages to date \$

D. Reasonably anticipated future medical and hospital expenses \$

E. Reasonably anticipated lost wages \$

F. Other documented items of damages (describe) \$

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)
Plaintiff suffered a fractured left hip and contusions.

TOTAL \$ 10,000.00

CONTRACT CLAIMS
(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$

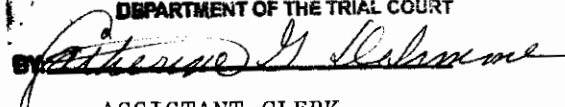
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record:  DATE **4/29/05**

I HEREBY ATTEST AND CERTIFY ON
AUGUST 26, 2005, THAT THE
FOREGOING DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT


ASSISTANT CLERK.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO. 05-1699-*6*

AVERILL BARKHOUSE and JODY
BARKHOUSE

Plaintiff

v.

DELTA AIRLINES, INC. and GLOBE
GROUND NORTH AMERICA LLC

Defendants

AFFIDAVIT OF SERVICE

I, Kevin C. Cain, hereby depose under oath and state as follows:

1. On July 29, 2005, I served a copy of the summons and complaint relating to this matter by certified mail, return receipt requested, on the principal office of Delta Air Lines, Inc., 1030 Delta Boulevard, Dept. 852, Atlanta, Georgia 30320.

2. Attached to this affidavit as Exhibit A is a true and accurate copy of my cover letter with enclosures, and the certified mail receipt.

Signed under the pains and penalties of perjury this 29th day of July, 2005.

**I HEREBY ATTEST AND CERTIFY ON
AUGUST 26, 2005,**

**THAT THE
FORESAID DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.**

**MICHAEL JOSEPH CONNOR
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT**

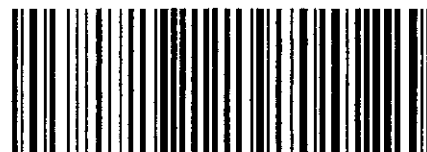
[Signature]
Kevin C. Cain # 550055
Peabody & Arnold LLP
30 Rowes Wharf
Boston, MA 02110
(617) 951-2100

619794_1

BY: *[Signature]*

ASSISTANT CLERK.

EX A

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE**CERTIFIED MAIL™**

7004 0550 0000 5007 2526

7004 0550 0000 5007 2526

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)For delivery information visit our website at www.usps.com**OFFICIAL USE**

KCC	Postage	\$
14953/Certified Fee		
91229 (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Postmark
Here

Sent To

Delta Air Lines, Inc.
 Street, Apt. No. 1030 Delta Boulevard
 or PO Box No.
 City, State, Zip+4 Dept. 852
 Atlanta, GA 30320

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Delta Air Lines, Inc.
 1030 Delta Blvd.
 Dept. 852
 Atlanta, GA 30320

COMPLETE THIS SECTION ON DELIVERY**A. Signature****X**☐ Agent**B. Received by (Printed Name)**☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)☐ Yes**2. Article Number**

(Transfer from service label)

7004 0550 0000 5007 2526

PS Form 3811, February 2004

Domestic Return Receipt

102596-02-44-1540

PEABODY & ARNOLD LLP
COUNSELLORS AT LAW

30 ROWES WHARF, BOSTON, MA 02110
[617] 951.2100 FAX [617] 951.2125

BOSTON, MA PROVIDENCE, RI

KEVIN C. CAIN
[617] 951.2045
KCAIN@PEABODYARNOLD.COM

July 29, 2005

Via Certified Mail, Return Receipt Requested

Delta Air Lines, Inc.
1030 Delta Boulevard
Dept. 852
Atlanta, GA 30320

Re: Averill Barkhouse, et al. v. Delta Airlines, Inc. and Globe Ground North America LLC
Suffolk Superior Court, Civil Action No. 05-1699

Dear Sir/Madam:

Enclosed please find a Summons and Complaint with reference to the above-captioned matter.

To ensure that your interests are properly protected, please forward the Summons and Complaint to your attorney or insurance carrier immediately.

Very truly yours,


Kevin C. Cain

KCC/dg
Enclosures
619785_1
14953-91229

Commonwealth of Massachusetts

SUFFOLK, ss.



SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION

No. 05-1699

Averill Barkhouse and Jody Barkhouse, Plaintiff(s)

v.

Delta Airlines, Inc. and Globe Ground North, Defendant(s)
America LLC

SUMMONS

To the above-named Defendant: Delta Airlines, Inc.

You are hereby summoned and required to serve upon Kevin C. Cain, Esq.,
Peabody & Arnold LLP
plaintiff's attorney, whose address is 30 Rowes Wharf, Boston, MA 02110, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, **Barbara J. Rouse**, Esquire, at Boston, the twenty-ninth day of
July, in the year of our Lord two thousand and five.

Michael Joseph Donovan

Clerk/Magistrate

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED
(1) TORT — (2) MOTOR VEHICLE TORT — (3) CONTRACT — (4) EQUITABLE RELIEF — (5) OTHER



PLAINTIFF(S)

**Averill Barkhouse and
Jody Barkhouse**

DEFENDANT(S)

**Delta Air Lines, Inc. and
GlobeGround North America, LLC**

COPY

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

**Kevin C. Cain BBO# 550055
Peabody & Arnold LLP**

Board of Bar Overseers number:

30 Rowes Wharf, Boston, MA 02110

ATTORNEY (if known)

Origin code and track designation

Place an x in one box only:

- ☒ 1. F01 Original Complaint
☐ 2. F02 Removal to Sup.Ct. C.231,s.104
 (Before trial) (F)
☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

- ☐ 4. F04 District Court Appeal C.231, s.97 & 104 (After trial) (X)
☐ 5. F05 Reactive Order after rescript; relief from judgment/Order (Mass. Civ.P. 60) (X)
☐ 6. E10 Summary Process Appeal (X)

RECEIVED

APR 29 2005

**MICHAEL JOSEPH NOVAN
CLERK / MAGISTRATE**

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.

TYPE OF ACTION (specify)

TRACK

IS THIS A JURY CASE?

B04

Negligence

(F)

(X) Yes

() No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

- | | | |
|------------------------------------|-------------|--------------|
| 1. Total hospital expenses | (estimated) | \$ 10,000.00 |
| 2. Total Doctor expenses | | \$ |
| 3. Total chiropractic expenses | | \$ |
| 4. Total physical therapy expenses | | \$ |
| 5. Total other expenses (describe) | | \$ |

Subtotal \$

B. Documented lost wages and compensation to date \$

C. Documented property damages to date \$

D. Reasonably anticipated future medical and hospital expenses \$

E. Reasonably anticipated lost wages \$

F. Other documented items of damages (describe) \$

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

Plaintiff suffered a fractured left hip, and contusions.

TOTAL \$ 10,000.00

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE: 4/29/05

CCNY

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO.

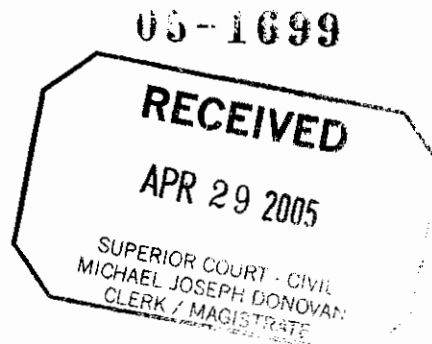
AVERILL BARKHOUSE and JODY
BARKHOUSE

Plaintiff

v.

DELTA AIRLINES, INC. and GLOBE
GROUND NORTH AMERICA LLC

Defendants



COMPLAINT

Parties

1. The plaintiff, Averill Barkhouse, is a natural person who currently resides at 3849 Highway 14, Upper Rawdon, Nova Scotia, Canada.
2. The plaintiff, Jody Barkhouse, is a natural person who currently resides at 3849 Highway 14, Upper Rawdon, Nova Scotia, Canada.
3. The defendant, Delta Air Lines, Inc. ("Delta") is a Delaware Corporation with its principal place of business at 1030 Delta Blvd Dept. 852 Atlanta, GA, 30320. Delta's resident agent in Massachusetts is Corporation Service Company, 84 State Street, Boston, MA 02109.
4. The defendant, GlobeGround North America LLC ("GlobeGround"), is a Delaware Corporation with its principal place of business at 111 Great Neck Road, Great Neck, MA 11022-0000. GlobeGround's resident agent is CT Corporation System, 101 Federal Street, Boston, MA 02110.

Facts

5. On May 3, 2003 Averill Barkhouse and Jody Barkhouse were passengers on Delta flight DL2070 originating in Atlanta, Georgia with a destination of Boston, Massachusetts.

6. Flight DL2070 was the first segment of a trip with the final destination of Halifax, Nova Scotia. The lack of a direct flight from Atlanta required the Barkhouse's to change of planes in Boston.
7. Averill Barkhouse was a quadriplegic, traveled with a custom motorized wheelchair and required assistance in embarking and disembarking the aircraft.
8. Upon information and belief GlobeGround was contracted by Delta airlines to provide Delta with certain ground based services at Boston's Logan International Airport, including, inter alia, assistance in transferring physically disabled passengers to and from Delta's aircraft.
9. Delta and GlobeGround were on notice of Averill Barkhouse's medical condition and his need for assistance embarking and disembarking Delta's aircraft in Boston.
10. GlobeGround's employees failed to use ordinary care in transferring Averill Barkhouse from his seat on Delta flight DL2070 to a wheelchair in Boston.
11. As a result of the negligence of GlobeGround's employees, Averill Barkhouse suffered serious personal injuries, including but not limited to a fracture to his left hip.

COUNT I – NEGLIGENCE – (Averill Barkhouse against all Defendants)

12. The plaintiff, Averill Barkhouse repeats and realleges the allegations contained in paragraphs 1 through 11 and incorporates them as if fully set forth herein.
13. Each defendant owed the plaintiff a duty of care in the transfer of Averill Barkhouse from the Delta aircraft to the terminal.
14. As a direct and proximate result of the negligence of each defendant plaintiff, Averill Barkhouse was caused to suffer serious debilitating physical injuries including mental and physical pain.

WHEREFORE, the Plaintiff, Averill Barkhouse, demands judgment against the defendants, jointly and severally, for the damages herein described, in a full and just amount, together with interest and costs.

COUNT II – LOSS OF CONSORTIUM – (Jody Barkhouse against all Defendants)

15. The plaintiff, Jody Barkhouse repeats and realleges the allegations contained in paragraphs 1 through 11 and incorporates them as if fully set forth herein.
16. Each defendant owed the plaintiff a duty of care in the transfer of Averill Barkhouse from the Delta aircraft to the terminal.
17. As a direct and proximate result of the negligence of each defendant plaintiff, Jody Barkhouse Averill Barkhouse was caused to suffer a loss of consortium, company,

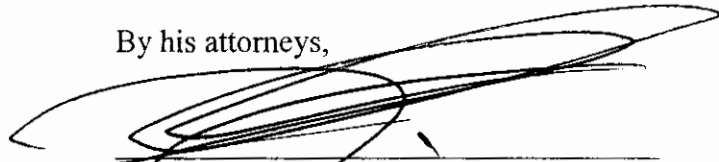
society, and affection of Averill Barkhouse due to the serious debilitating physical injuries he suffered due to the negligence of the defendants.

WHEREFORE, the Plaintiff, Jody Barkhouse, demands judgment against the defendants, jointly and severally, for the damages herein described, in a full and just amount, together with interest and costs.

JURY CLAIM

The plaintiff hereby requests a trial by jury.

By his attorneys,



Kevin C. Cain #550055
Peabody & Arnold LLP
30 Rowes Wharf
Boston, MA 02110
(617) 951-2100

PABOS2:KCAIN:613621_1

4

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO. 05-1699 - B

AVERILL BARKHOUSE and JODY
BARKHOUSE

Plaintiff

v.

DELTA AIRLINES, INC. and GLOBE
GROUND NORTH AMERICA LLC

Defendants

AFFIDAVIT OF SERVICE

I, Kevin C. Cain, hereby depose under oath and state as follows:

1. On July 29, 2005, I served a copy of the summons and complaint relating to this matter by certified mail, return receipt requested, on the principal office of Globe Ground North America LLC, 111 Great Neck Road, Suite 600, Post Office Box 355, Great Neck, NY 11022-0355.

2. Attached to this affidavit as Exhibit A is a true and accurate copy of my cover letter with enclosures, and the certified mail receipt.

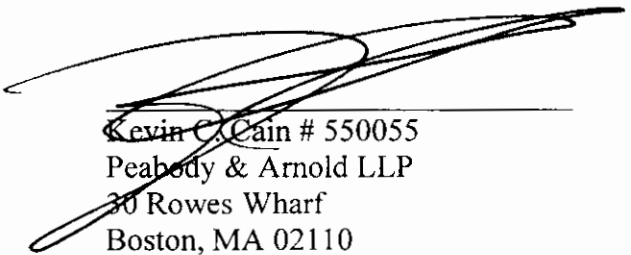
Signed under the pains and penalties of perjury this 29th day of July, 2005.

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AUGUST 26, 2005, THAT THE
FOREGOING DOCUMENT IS A FULL,
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ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT

BY: 

ASSISTANT CLERK.


Kevin C. Cain # 550055
Peabody & Arnold LLP
30 Rowes Wharf
Boston, MA 02110
(617) 951-2100

619797_1

EX 1

U.S. Postal ServiceTM
CERTIFIED MAILTM RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com.

OFFICIAL USE

KCC Postage \$
 14953 / Certified Fee
 91229 Return Receipt Fee
 (Endorsement Required)
 Restricted Delivery Fee
 (Endorsement Required)
 Total Postage & Fees \$

Postmark Here

Sent To
 Globe Ground North America LLC
 Street, Apt. No.: 111 Great Neck Rd., #600
 or PO Box No. P. O. Box 355
 City, State, ZIP+4
 Great Neck, NY 11022-0355

PS Form 3800, June 2002 See Reverse for Instructions

2505 1100 4000 0602 4002
 2505 1100 4000 0602 4002



CERTIFIED MAILTM
 PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
 OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Globe Ground North America LLC
 111 Great Neck Road, Suite 600
 P. O. Box 355
 Great Neck, NY 11022-0355

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

☒ Signature ☐ Agent ☐ Addressee

B. Received by (Printed Name) **C. Date of Delivery**

D. Is delivery address different from item 1? ☐ Yes ☐ No
 If YES, enter delivery address below:

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number

(Transfer from service label)

7004 2890 0004 8011 5052

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

PEABODY & ARNOLD LLP
COUNSELLORS AT LAW

30 ROWES WHARF, BOSTON, MA 02110
[617] 951.2100 FAX [617] 951.2125

BOSTON, MA PROVIDENCE, RI

KEVIN C. CAIN
[617] 951.2045
KCAIN@PEABODYARNOLD.COM

July 29, 2005

Via Certified Mail, Return Receipt Requested

Globe Ground North America LLC
111 Great Neck Road, Suite 600
P. O. Box 355
Great Neck, NY 11022-0355

Re: Averill Barkhouse, et al. v. Delta Airlines, Inc. and Globe Ground North America LLC
Suffolk Superior Court, Civil Action No. 05-1699

Dear Sir/Madam:

Enclosed please find a Summons and Complaint with reference to the above-captioned matter.

To ensure that your interests are properly protected, please forward the Summons and Complaint to your attorney or insurance carrier immediately.

Very truly yours,


Kevin C. Cain

KCC/dg
Enclosures
619787_1
14953-91229

Commonwealth of Massachusetts

SUFFOLK, ss.



SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION

No. 05-1699

Averill Barkhouse and Jody Barkhouse, Plaintiff(s)

v.

Delta Airlines, Inc. and Globe Ground North, Defendant(s)
America LLC

SUMMONS

To the above-named Defendant: Globe Ground North America LLC

You are hereby summoned and required to serve upon Kevin C. Cain, Esq.
Peabody & Arnold LLP
plaintiff's attorney, whose address is 30 Rowes Wharf, Boston, MA 02110, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse, Esquire, at Boston, the twenty-ninth day of
July, in the year of our Lord two thousand and five.

Michael Joseph Donovan
Clerk/Magistrate

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED
(1) TORT — (2) MOTOR VEHICLE TORT — (3) CONTRACT — (4) EQUITABLE RELIEF — (5) OTHER



PLAINTIFF(S)

**Averill Barkhouse and
Jody Barkhouse**

DEFENDANT(S)

**Delta Air Lines, Inc. and
GlobeGround North America, LLC**

COPY

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

**Kevin C. Cain BBO# 550055
Peabody & Arnold LLP
30 Rowes Wharf, Boston, MA 02110**

Board of Bar Overseers number:

ATTORNEY (if known)

Origin code and track designation

Place an x in one box only:

- ☒ 1. F01 Original Complaint
☐ 2. F02 Removal to Sup.Ct. C.231,s.104
 (Before trial) (F)
☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

- ☐ 4. F04 District Court Appeal C.231, s. 97 & 104 (After trial) (X)
☐ 5. F05 Reactive Appeal after rescript; relief from judgment/Order (Mass. Civ.P. 60) (X)
☐ 6. E10 Summary Process Appeal (X)

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.

TYPE OF ACTION (specify)

TRACK

IS THIS A JURY CASE?

B04

Negligence

(F)

(X) Yes

() No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

- | | | |
|------------------------------------|-------------|--------------|
| 1. Total hospital expenses | (estimated) | \$ 10,000.00 |
| 2. Total Doctor expenses | | \$ |
| 3. Total chiropractic expenses | | \$ |
| 4. Total physical therapy expenses | | \$ |
| 5. Total other expenses (describe) | | \$ |

Subtotal \$

B. Documented lost wages and compensation to date

C. Documented property damages to date

D. Reasonably anticipated future medical and hospital expenses

E. Reasonably anticipated lost wages

F. Other documented items of damages (describe)

\$

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

Plaintiff suffered a fractured left hip, and contusions.

\$ 10,000.00
TOTAL \$

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

TOTAL \$

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE: 4/29/05

COPY

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO.

AVERILL BARKHOUSE and JODY
BARKHOUSE

Plaintiff

v.

DELTA AIRLINES, INC. and GLOBE
GROUND NORTH AMERICA LLC

Defendants

05-1699

RECEIVED

APR 29 2005

SUPERIOR COURT - CIVIL
MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE

COMPLAINT

Parties

1. The plaintiff, Averill Barkhouse, is a natural person who currently resides at 3849 Highway 14, Upper Rawdon, Nova Scotia, Canada.
2. The plaintiff, Jody Barkhouse, is a natural person who currently resides at 3849 Highway 14, Upper Rawdon, Nova Scotia, Canada.
3. The defendant, Delta Air Lines, Inc. ("Delta") is a Delaware Corporation with its principal place of business at 1030 Delta Blvd Dept. 852 Atlanta, GA, 30320. Delta's resident agent in Massachusetts is Corporation Service Company, 84 State Street, Boston, MA 02109.
4. The defendant, GlobeGround North America LLC ("GlobeGround"), is a Delaware Corporation with its principal place of business at 111 Great Neck Road, Great Neck, MA 11022-0000. GlobeGround's resident agent is CT Corporation System, 101 Federal Street, Boston, MA 02110.

Facts

5. On May 3, 2003 Averill Barkhouse and Jody Barkhouse were passengers on Delta flight DL2070 originating in Atlanta, Georgia with a destination of Boston, Massachusetts.

6. Flight DL2070 was the first segment of a trip with the final destination of Halifax, Nova Scotia. The lack of a direct flight from Atlanta required the Barkhouse's to change of planes in Boston.
7. Averill Barkhouse was a quadriplegic, traveled with a custom motorized wheelchair and required assistance in embarking and disembarking the aircraft.
8. Upon information and belief GlobeGround was contracted by Delta airlines to provide Delta with certain ground based services at Boston's Logan International Airport, including, inter alia, assistance in transferring physically disabled passengers to and from Delta's aircraft.
9. Delta and GlobeGround were on notice of Averill Barkhouse's medical condition and his need for assistance embarking and disembarking Delta's aircraft in Boston.
10. GlobeGround's employees failed to use ordinary care in transferring Averill Barkhouse from his seat on Delta flight DL2070 to a wheelchair in Boston.
11. As a result of the negligence of GlobeGround's employees, Averill Barkhouse suffered serious personal injuries, including but not limited to a fracture to his left hip.

COUNT I – NEGLIGENCE – (Averill Barkhouse against all Defendants)

12. The plaintiff, Averill Barkhouse repeats and realleges the allegations contained in paragraphs 1 through 11 and incorporates them as if fully set forth herein.
13. Each defendant owed the plaintiff a duty of care in the transfer of Averill Barkhouse from the Delta aircraft to the terminal.
14. As a direct and proximate result of the negligence of each defendant plaintiff, Averill Barkhouse was caused to suffer serious debilitating physical injuries including mental and physical pain.

WHEREFORE, the Plaintiff, Averill Barkhouse, demands judgment against the defendants, jointly and severally, for the damages herein described, in a full and just amount, together with interest and costs.

COUNT II – LOSS OF CONSORTIUM – (Jody Barkhouse against all Defendants)

15. The plaintiff, Jody Barkhouse repeats and realleges the allegations contained in paragraphs 1 through 11 and incorporates them as if fully set forth herein.
16. Each defendant owed the plaintiff a duty of care in the transfer of Averill Barkhouse from the Delta aircraft to the terminal.
17. As a direct and proximate result of the negligence of each defendant plaintiff, Jody Barkhouse Averill Barkhouse was caused to suffer a loss of consortium, company,

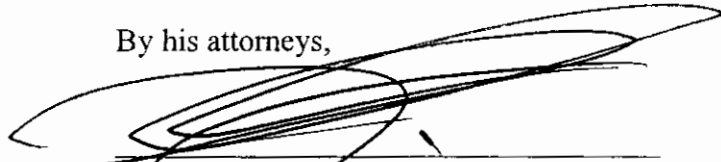
society, and affection of Averill Barkhouse due to the serious debilitating physical injuries he suffered due to the negligence of the defendants.

WHEREFORE, the Plaintiff, Jody Barkhouse, demands judgment against the defendants, jointly and severally, for the damages herein described, in a full and just amount, together with interest and costs.

JURY CLAIM

The plaintiff hereby requests a trial by jury.

By his attorneys,

A large, stylized handwritten signature in black ink, appearing to read 'Kevin C. Cain', is written over a horizontal line.

Kevin C. Cain #550055
Peabody & Arnold LLP
30 Rowes Wharf
Boston, MA 02110
(617) 951-2100

PABOS2:KCAIN:613621_1

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO. 05-1699

AVERILL BARKHOUSE and JODY
BARKHOUSE

Plaintiff

v.

DELTA AIRLINES, INC. and GLOBE
GROUND NORTH AMERICA LLC

Defendants

AFFIDAVIT OF SERVICE

I, Kevin C. Cain, hereby depose under oath and state as follows:

1. On July 29, 2005, I served a copy of the summons and complaint relating to this matter by certified mail, return receipt requested, on the principal office of Delta Air Lines, Inc., 1030 Delta Boulevard, Dept. 852, Atlanta, Georgia 30320. Also, on August 1, 2005, I caused to be served by the Suffolk County Sheriff's Department a copy of the summons and complaint upon Delta Air Lines c/o Corporation Service Company, 84 State Street, Boston, Massachusetts.

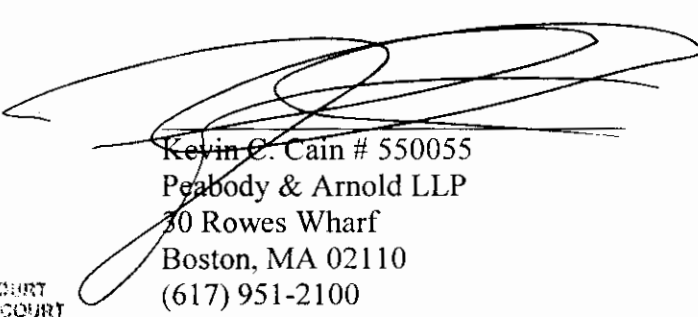
2. Attached to this affidavit as Exhibit A is a true and accurate copy of my cover letter, the original summons with original return of service, and the signed original domestic return receipt.

Signed under the pains and penalties of perjury this 5th day of August, 2005.

**I HEREBY ATTEST AND CERTIFY ON
AUGUST 26, 2005, THAT THE**

**FOREGOING DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.**

**MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT**


Kevin C. Cain # 550055
Peabody & Arnold LLP
30 Rowes Wharf
Boston, MA 02110
(617) 951-2100

619794_1

BY: 

ASSISTANT CLERK.

PEABODY & ARNOLD LLP
COUNSELLORS AT LAW

30 ROWES WHARF, BOSTON, MA 02110
[617] 951.2100 FAX [617] 951.2125

BOSTON, MA PROVIDENCE, RI

KEVIN C. CAIN
[617] 951.2045
KCAIN@PEABODYARNOLD.COM

July 29, 2005

Via Certified Mail, Return Receipt Requested

Delta Air Lines, Inc.
1030 Delta Boulevard
Dept. 852
Atlanta, GA 30320

Re: Averill Barkhouse, et al. v. Delta Airlines, Inc. and Globe Ground North America LLC
Suffolk Superior Court, Civil Action No. 05-1699

Dear Sir/Madam:

Enclosed please find a Summons and Complaint with reference to the above-captioned matter.

To ensure that your interests are properly protected, please forward the Summons and Complaint to your attorney or insurance carrier immediately.

Very truly yours,

Kevin C. Cain

KCC/dg
Enclosures
619785_1
14953-91229

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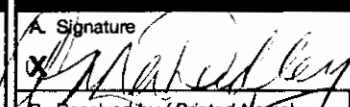
7004 0550 0000 5007 2526

KCC	Postage	\$
14953 / Certified Fee		
91229	Return Receipt Fee (Endorsement Required)	
	Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees		\$

Postmark
 Healdsburg
 JUL 29

Sent To
 Delta Air Lines, Inc.
 Street, Apt. No.: 1030 Delta Boulevard
 or PO Box No. Dept. 852
 City, State, ZIP+4
 Atlanta, GA 30320

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p>Delta Air Lines, Inc. 1030 Delta Blvd. Dept. 852 Atlanta, GA 30320</p>	<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) [Signature]</p> <p>C. Date of Delivery 8/2/05</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>2. Article Number (Transfer from service label)</p> <p>7004 0550 0000 5007 2526</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

Commonwealth of Massachusetts

6

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION

No. 05-1699

Averill Barkhouse and Jody Barkhouse, Plaintiff(s)

v.

Delta Airlines, Inc. and Globe Ground North America LLC, Defendant(s)

SUMMONS

To the above-named Defendant: Globe Ground North America LLC

You are hereby summoned and required to serve upon Kevin C. Cain, Esq.
Peabody & Arnold LLP

plaintiff's attorney, whose address is 30 Rowes Wharf, Boston, MA 02110, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Barbara J. Rouse, Esquire, at Boston, the twenty-ninth day of July, in the year of our Lord two thousand and five.

Michael Joseph Donovan
Clerk/Magistrate

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.
3. TO PLAINTIFF'S ATTORNEY PLEASE CIRCLE TYPE OF ACTION INVOLVED:
(1) TORT (2) MOTOR VEHICLE TORT (3) CONTRACT (4) EQUITABLE RELIEF (5) OTHER

FORM CIV.P. 1 3rd Rev.

I HEREBY ATTEST AND CERTIFY ON

AUGUST 26, 2005, THAT THE

FOREGOING DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT

BY: *Patricia M. De Simone*

ASSISTANT CLERK.

NOTICE TO DEFENDANT: You need not appear personally in court to answer the complaint, but you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO. 05-1699

AVERILL BARKHOUSE and JODY
BARKHOUSE

Plaintiff

v.

DELTA AIRLINES, INC. and GLOBE
GROUND NORTH AMERICA LLC

Defendants

AFFIDAVIT OF SERVICE

I, Kevin C. Cain, hereby depose under oath and state as follows:

1. On July 29, 2005, I served a copy of the summons and complaint relating to this matter by certified mail, return receipt requested, on the principal office of Globe Ground North America LLC, 111 Great Neck Road, Suite 600, Post Office Box 355, Great Neck, NY 11022-0355. Also, on August 3, 2005, I caused to be served by the Suffolk County Sheriff's Department a copy of the summons and complaint upon Globe Ground North America LLC c/o Registered Agent, CT Corporation System, 101 Federal Street, Boston, Massachusetts.

2. Attached to this affidavit as Exhibit A is a true and accurate copy of my cover letter, the original summons with original return of service, and the signed original domestic return receipt.

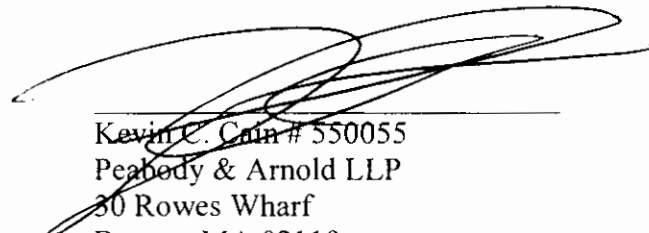
Signed under the pains and penalties of perjury this 4th day of August, 2005.

**I HEREBY ATTEST AND CERTIFY ON
AUGUST 26, 2005, THAT THE
FOREGOING DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.**

**MICHAEL JOSEPH GONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT**

BY: 

ASSISTANT CLERK.


Kevin C. Cain # 550055
Peabody & Arnold LLP
30 Rows Wharf
Boston, MA 02110
(617) 951-2100

PEABODY & ARNOLD LLP
COUNSELLORS AT LAW

30 ROWES WHARF, BOSTON, MA 02110
[617] 951.2100 FAX [617] 951.2125

BOSTON, MA PROVIDENCE, RI

KEVIN C. CAIN
[617] 951.2045
KCAIN@PEABODYARNOLD.COM

July 29, 2005

Via Certified Mail, Return Receipt Requested

Globe Ground North America LLC
111 Great Neck Road, Suite 600
P. O. Box 355
Great Neck, NY 11022-0355

Re: Averill Barkhouse, et al. v. Delta Airlines, Inc. and Globe Ground North America LLC
Suffolk Superior Court, Civil Action No. 05-1699

Dear Sir/Madam:

Enclosed please find a Summons and Complaint with reference to the above-captioned matter.

To ensure that your interests are properly protected, please forward the Summons and Complaint to your attorney or insurance carrier immediately.

Very truly yours,


Kevin C. Cain

KCC/dg
Enclosures
619787_1
14953-91229



Suffolk County Sheriff's Department • 45 Bromfield Street • Boston, MA 02108 • (617) 989-6999
Suffolk, ss.

is,
ng

August 3, 2005

I hereby certify and return that on 8/1/2005 at 3:55PM I served a true and attested copy of the Summons, Amended Complaint and Statement of Damages in this action in the following manner: To wit, by delivering in hand to B.Montanez, Process Clerk, agent at the time of service for Delta Air Lines, Inc., at , Corporation Service Company, 84 State Street Boston, MA. Basic Service Fee (IH) (\$30.00), Travel (\$1.00), Postage and Handling (\$1.00), Attest/Copies (\$5.00) Total Charges \$37.00

John Cotter
Deputy Sheriff

Deputy Sheriff John Cotter
N.D. TO PROCESS SERVER:-

PLEASE PLACE DATE YOU MAKE SERVICE ON DEFENDANT IN
THIS BOX ON THE ORIGINAL AND ON COPY SERVED ON DEFENDANT.

, 200 .

msu/7949

Commonwealth of Massachusetts

SUFFOLK, ss. SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION
No. 05-1699

Averill Barkhouse and Jody Barkhouse, Plff(s).

v.

Delta Airlines, Inc. and Globe Ground North, Deft(s).
America LLC

SUMMONS
(Mass. R. Civ. P. 4)
(AFFIX FILING STAMP HERE)

KCC

7004 2890 0004 8011 5052

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
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For delivery information visit our website at www.usps.com

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KCC	Postage	\$
14953/	Certified Fee	
91229	Return Receipt Fee (Endorsement Required)	
	Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees		\$

Postmark Here
 JUL 29 2005
 STATION BOSTON

Sent To
 Globe Ground North America LLC
 Street, Apt. No., III Great Neck Rd, #600
 or PO Box No. P.O. Box 355
 City, State, ZIP+4
 Great Neck, NY 11022-0355

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Globe Ground North America LLC
 11 Great Neck Road, Suite 600
 P. O. Box 355
 Great Neck, NY 11022-0355

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X 1-6004win ☐ Agent ☐ Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

AUG 01 2005

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number
 (Transfer from service label)

7004 2890 0004 8011 5052

Suffolk Superior Court # 05-1699

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

05 - 11660 NG

AVERILL BARKHOUSE and
JODY BARKHOUSE,

Plaintiffs,

v.

DELTA AIR LINES, INC. and
GLOBEGROUND NORTH
AMERICA LLC,

Defendants.

SUFFOLK SUPERIOR COURT
CIVIL DEPT. OFFICE
CLERK'S OFFICE

2005 AUG 26 A 10:32
3:10 P 3:15

MICHAEL J. JONES, JR.
CLERK, MASSACHUSETTS
DISTRICT OF MASS.



Hereby certify that the foregoing document is a true and correct copy of the electronic docket in the captioned case electronically filed original filed on original filed in my office on 8/10/05

Sarah A. Thorton
Clerk U.S. District Court
District of Massachusetts

By: Deputy Clerk

**NOTICE OF REMOVAL TO UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Pursuant to 28 U.S.C. § 1441 et seq. and LR 81.1 Delta Air Lines, Inc. ("Delta") hereby gives notice that it now removes this matter from the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts for Suffolk County to the United States District Court for the District of Massachusetts. This action is subject to removal pursuant to the provisions of 28 U.S.C. §1441 et seq. for the following reasons:

1. On April 29, 2005 the plaintiffs (collectively "Barkhouse") brought a civil action against Delta and GlobeGround North America LLC ("GlobeGround") styled *Averill Barkhouse, et al v. Delta Air Lines, Inc., et al*, bearing Civil Action No. 05-1699 ("the State Court Action"). A true copy of the Complaint in that case is attached hereto and marked Exhibit A.
2. The State Court Action is one over which this Court has original jurisdiction and is removable pursuant to 28 U.S.C. §1441, in that it is a civil action between

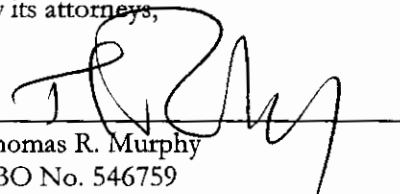
citizens of a foreign nation and another state, and neither defendant is a citizen of the state in which the action is brought.

3. In paragraphs 1 and 2 of the Complaint, Barkhouse alleges the plaintiffs are citizens of Upper Rawdon, Nova Scotia, Canada. In paragraphs 3 and 4 Barkhouse avers that Delta and GlobeGround are Delaware corporations.
4. Liability questions aside, Delta believes that the amount in controversy in this matter exceeds \$75,000, exclusive of interest and costs, the amount in controversy required for removal by 28 U.S.C. §1332 (a).
5. Barkhouse served Delta with process, through its agent for service, Corporation Service Company, on August 1, 2005 but it has yet to file an Answer or otherwise respond to the State Court Action.
6. Barkhouse served GlobeGround with process, through its agent for service, Corporation Service Company, on August 1, 2005 but it has yet to file an Answer or otherwise respond to the State Court Action.
7. Counsel for GlobeGround has given her assent to remove this matter, and her Consent to Removal is attached hereto and marked Exhibit B.
8. The Convention for the Unification of Certain Rules Relating to International Transportation by Air, Oct. 12, 1929, 49 Stat. 3000, 3014, T.S. No. 876 (1934), reprinted in note following 49 U.S.C. § 40105 (the "Warsaw Convention") support the defendants' preemption defense to Barkhouse's claims, the notion that those claims arise under federal common law, and that the Complaint raises a cause of action under the Constitution, federal statute, or international treaty:
9. Promptly after filing this Notice of Removal of the State Court action, Delta will give written notice of such filing to counsel for Barkhouse, will file a copy of the

Notice of Removal with the Clerk of the State Court, and will proceed no further unless and until the case is remanded.

WHEREFORE, Delta Air Lines, Inc. respectfully requests that this case be removed from the Superior Court Department of the Trial Court of the Commonwealth of Massachusetts for Suffolk County to the United States District Court for the District of Massachusetts.

Respectfully submitted,
Delta Air Lines, Inc.
By its attorneys,



Thomas R. Murphy
BBO No. 546759
Giarrusso, Norton, Cooley & McGlone, P.C.
Marina Bay
308 Victory Road
Quincy, MA 02171
Telephone: 617-770-2900

Dated: _____

